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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Promotion and Protection
of Human Rights
Fifty-second session
Item 2 of the provisional agenda

QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING POLICIES OF RACIAL DISCRIMINATION AND SEGREGATION, IN ALL COUNTRIES, WITH PARTICULAR REFERENCE TO COLONIAL AND OTHER DEPENDENT COUNTRIES AND TERRITORIES

REPORT OF THE SUB-COMMISSION UNDER COMMISSION ON HUMAN RIGHTS RESOLUTION 8 (XXIII)

Violations of the rights of human rights defenders in all countries

Report of the High Commissioner for Human Rights

1. In paragraph 6 of its resolution 1999/3 the Sub-Commission requested the United Nations High Commissioner for Human Rights to inquire about the security situation of persons listed in the annex to the resolution and to inform the Sub-Commission, at its fifty-second session, of the results of her inquiries.

2. On 31 January 2000 the High Commissioner, in compliance with the above-mentioned resolution, transmitted to the Governments of Cambodia, Syria, Turkey, Tunisia, Federal Republic of Yugoslavia, Togo, Zimbabwe and the Democratic Republic of the Congo communications concerning the security situation of, respectively: Kim Sen and Meas Minear, members of the Cambodian League for the Promotion and Defence of Human Rights; Nizar Nayyouf, a leading member of the Independent Committees for the Defence of Democratic Freedoms and Human Rights in the Syrian Arab Republic; Mehmet Eren, a reporter for the weekly magazine, Heviy, in Turkey; Radhia Nasraoui, a lawyer and member of the Tunisian

League for Human Rights; Flora Brovina, a Kosovar human rights defender; Nestor Tengue, François Gayibor and Brice Santanna, members of the Togo Human Rights Association; Keith Goddard, Programme Coordinator and co-founder of the Gay and Lesbian Group Zimbabwe (GALZ); and Floribert Chebeya, President of Voix des sans voix, Democratic Republic of the Congo.

3. The following information has been provided to the Office of the High Commissioner for Human Rights (OHCHR) in response to the above-mentioned communications.

Mehmet Eren, reporter for the weekly magazine, Heviy, Turkey

4. By letter dated 7 April 2000 the Government of Turkey informed the High Commissioner that Mr. Mehmet Eren had been taken into custody on 16 November 1998 by the Directorate-General of Security in Diyarbakir on the grounds of his participation in the illegal demonstrations held in Diyarbakir in support of the illegal terrorist organization, the Kurdistan Workers Party (PKK) and its leader Abdullah Ocalan. He was released from detention on 25 November 1998. It had been established through medical reports issued during his period of detention that he had not been subjected to torture or ill-treatment, nor had he lodged any complaint.

5. The Government also informed the High Commissioner that the case had previously been reported to it through a communication received under the 1503 procedure and had been cleared up by the Working Group on Communications in July 1999.

6. The Government of Turkey stated that, in compliance with a request made by the Sub-Commission in resolution 1999/3, the case had been lodged with the State Security Court of Diyarbakir for investigation as to whether Mr. Mehmet Eren had been subjected to torture or ill-treatment by the relevant Turkish authorities.

Radhia Nasraoui, lawyer and member of the Tunisian League for Human Rights

7. By letter dated 2 May 2000, the Tunisian Government informed the High Commissioner that Ms. Radhia Nasraoui had, with other persons, been involved in the offences of maintaining an illegal association, defamation of public order, distribution of tracts liable to disrupt public order, publication of false information and holding of illegal meetings.

8. The Government informed the High Commissioner that, throughout the duly conducted judicial proceedings, Ms. Nasraoui benefited from all the guarantees provided for in Tunisian legislation (presence of counsel, adversarial deliberations, public hearing).

9. According to the information communicated by the Government, Ms. Nasraoui was at first instance given a suspended sentence of six months' imprisonment by the Sixth Correctional Division of the Tunis Court of First Instance, which passed judgement after hearing the defendants and the other parties. Ms. Nasraoui and the Public Prosecutor lodged appeals.

10. The case was scheduled to be heard in the Fourteenth Division of the Tunis Court of Appeal on 3 August 1999, but was postponed until 6 August at the request of the defence. The judgement of the Court of Appeal handed down on that date confirmed the verdict at first instance.

11. The defendant and the Public Prosecutor lodged appeals with the Court of Cassation. The Government stated that, as of the date of the letter, this Court had not handed down its judgement.

12. The Tunisian Government observed that the prosecution and conviction of Ms. Nasraoui are the result of acts characterized as offences under the ordinary law and are totally unrelated to her alleged human rights activities. Consequently, Ms. Nasraoui acted in breach of Tunisian law, which protects public, individual and collective freedoms, in the context of the Constitution and the laws.

13. The judicial proceedings, the Government states, were conducted in a manner fully consistent with the provisions of the Tunisian code of criminal procedure; these provisions protect the rights of the defence.

14. In addition, several thematic mechanisms of the Commission on Human Rights took action in respect of the following persons concerned.

Radhia Nasraoui

15. On 13 August 1999 the Special Rapporteur on the independence of judges and lawyers sent an urgent appeal to the Government of Tunisia concerning the situation of Ms. Radhia Nasraoui. On 24 December 1999, the Government informed the Special Rapporteur that during her trial Ms. Nasraoui had benefited from all the judicial guarantees provided by Tunisian law. She had been sentenced, along with others, by the Sixth Correctional Division of the Tunis Court of First Instance.

16. The Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression reported on Ms. Nasraoui's case to the Commission on Human Rights at its fifty-sixth session. In his report on his mission to Tunisia (6 to 10 December 1999), the Special Rapporteur expressed his particular concern about the alleged harassment of certain lawyers, especially Ms. Nasraoui (E/CN.4/2000/63/Add.4, para. 63).

Nizar Nayyouf

17. On 26 April 1999, the Special Rapporteur on torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a joint urgent appeal to the Government of Syria on behalf of Nizar Nayyouf. By letter dated 7 June 1999, the Government replied that Nizar Nayyouf had been arrested for participating, with a group of Syrian citizens, in the formation of an organization that engaged in opposition activities prejudicial to the security of the State with support from bodies outside Syria. The Government stated that the group deliberately disseminated false information and caused harm to their country under the pretext of defending human rights. Mr. Nayyouf had been sentenced in

accordance with the law. Regarding his state of health, the Government replied that he was receiving the requisite health care in the same way as any other prisoner, including having been transferred to a hospital and placed under the supervision of medical specialists. It further replied that he was not suffering from Hodgkin's disease, and that his only complaint was a discal hernia. Physicians supervising his case had reportedly decided that he did not require surgery but only medicinal treatment. The Government reported that his state of health was improving as a result of the treatment he was receiving.

18. On 7 October 1999 the Working Group on Arbitrary Detention sent an urgent appeal to the Government of Syria concerning the continued detention of Nizar Nayyouf. By note of 25 October 1999, the Government reiterated its position of 7 June 1999.

Flora Brovina

19. On 8 June 1999 the Working Group on Arbitrary Detention sent an urgent appeal to the Government of the Federal Republic of Yugoslavia concerning the security situation of Flora Brovina. No reply was received from the Government.

Nestor Tengue, François Gayibor and Brice Santana

20. On 11 May 1999, the Special Rapporteur on torture, jointly with the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression, sent an urgent appeal on behalf of Nestor Tengue and François Gayibor, executive members of the Togolese Association for the Defence and Promotion of Human Rights (ATDPDH), both of whom had been arrested by the police in Lomé on 3 May 1999. They were reportedly being held on Sûreté Nationale premises in Lomé, charged with "jeopardizing the credit and security of the State, dissemination of false information, forgery and the use of forgeries" for having transmitted to international human rights organizations erroneous information about violations committed by the Togolese Government, and for having followed the instructions of the opposition parties, the Democratic Convention of African Peoples (CDPA) and the Union of the Forces for Change (UFC). By letter dated 27 July 1999, the Government responded to this urgent appeal by stating that an inquiry had been initiated by the Central Directorate of the Judicial Police concerning the activities of the ATDPDH. The inquiry revealed that some of its members, including the persons referred to above, had offered to take photographs of the bodies of victims of traffic accidents with the aim of attributing those deaths to the security forces and to send the photos to the non-governmental organization Amnesty International. On 7 May 1999 they were brought before the Lomé Public Prosecutor's Office after an extension of police custody granted by the Public Prosecutor. An investigation was initiated on the grounds of their suspected complicity in damage to honour, dissemination of false information and incitement to rebellion. They were charged, and warrants of commitment were issued on 7 and 14 May 1999. On the application of the Public Prosecutor, they were released on 18 June 1999; the investigation is continuing. Lastly, the Government assured the Special Rapporteurs that Togo, in conformity with its international commitments, had made significant progress in ensuring respect for human rights, particularly in the judicial sphere, and by way of example mentioned the fact that the National Human Rights Commission had closely followed developments in that case.

Floribert Chebeya

21. The Special Rapporteur on torture and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression sent a joint letter dated 4 October 1999 to the Government of the Democratic Republic of the Congo in which the case of Floribert Chebeya was mentioned. No reply was received from the Government.

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